

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1072**

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**Introduced by Assembly Member Daly**

February 27, 2015

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An act to ~~repeal and add Chapter 10A (commencing with Section 11400) of Part 2 of Division 2 of~~ *add and repeal Section 11401.5 of* the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as amended, Daly. Insurance: firefighters or police officers' benefit and relief associations.

*Existing law generally provides for the regulation of insurers by the Department of Insurance pursuant to laws set forth in the Insurance Code. Existing law authorizes the Insurance Commissioner to make certain examinations, investigations, and prosecutions and, upon making a determination of the existence of certain conduct, conditions, or grounds, to issue orders reasonably necessary to correct, eliminate, or remedy the conduct, conditions, or grounds.*

*Existing law exempts from the requirements set forth in the Insurance Code firemen's, policemen's, and peace officers' benefit and relief associations that comply with specified criteria, including, among other things, a requirement that the membership consist solely of peace officers, members of police or fire departments, and emergency medical personnel employed by fire departments, as specified. Existing law prohibits an association from operating or doing business in the state without a certificate of authority.*

*This bill would require every association that holds a certificate of authority to submit to the commissioner the opinion, as specified, of a*

*qualified actuary as to whether the reserves and related actuarial items that support the policies or contracts issued are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and are based on specified actuarial standards and procedures. The bill would also require an association seeking a certificate of authority to file an opinion that meets specified requirements and that establishes that it would have adequate resources to provide benefits, as specified, as required to satisfy its proposed contractual obligations. The bill would require the commissioner to notify the association of the deficiencies in the filing if the association fails to provide an opinion and supporting memoranda to the commissioner that meets the requirements of the bill, as specified. The bill would also require the commissioner, if he or she determines that the laws governing these associations are inadequate to protect the interests of the members of the associations, to develop and deliver recommendations to the Assembly Committee on Insurance and the Senate Committee on Insurance regarding changes in the law that would better protect the interests of members of the associations. The provisions of the bill would remain in effect only until December 31, 2018, and as of that date are repealed.*

~~(1) Existing law generally provides for the regulation of insurers by the Department of Insurance pursuant to laws set forth in the Insurance Code. Existing law authorizes the Insurance Commissioner to make certain examinations, investigations, and prosecutions and, upon making a determination of the existence of certain conduct, conditions, or grounds, to issue orders reasonably necessary to correct, eliminate, or remedy the conduct, conditions, or grounds. Existing law also prohibits insurers from engaging in unfair or deceptive acts or practices, including advertising insurance that an insurer will not sell. A violation of that prohibition is a misdemeanor.~~

~~Existing law exempts from the requirements set forth in the Insurance Code firemen's, policemen's, and peace officers' benefit and relief associations that comply with specified criteria, including, among other things, a requirement that the membership consist solely of peace officers, members of police or fire departments, and emergency medical personnel employed by fire departments, as specified. Existing law prohibits an association from operating or doing business in the state without a certificate of authority, and imposes a filing fee of \$590 for the application for that certificate.~~

~~This bill would repeal those provisions and would enact new provisions governing those entities. Among other things, the bill would revise requirements governing membership, by authorizing these associations to consist of a majority of the members described above.~~

~~The bill would also impose new reporting, reserve, and disclosure requirements upon certain associations that offer long-term benefits, as defined. The bill would authorize the commissioner to examine the operations, affairs, transactions, conduct, and financial condition of an association, and to carry out other enforcement duties with respect to these associations. The bill would require these associations to pay a filing fee of \$590 for the application for the certificate, and an annual fee of \$350, thereby imposing taxes, and would require these associations to pay \$347 for filing financial information. The bill would also make these associations subject to the prohibitions against unfair or deceptive acts or practices. By expanding the scope of a crime, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(3) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

~~Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.~~

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 11401.5 is added to the Insurance Code,
- 2     to read:
- 3     11401.5. (a) (1) Each association that holds a certificate of
- 4     authority pursuant to this chapter shall submit to the commissioner
- 5     the opinion of a qualified actuary as to whether the reserves and
- 6     related actuarial items that support the policies or contracts issued
- 7     pursuant to this chapter, including policies and contracts issued
- 8     by entities established by these associations that provide benefits
- 9     described in this chapter, are based on assumptions that satisfy

1 contractual provisions, are consistent with prior reported amounts,  
2 and are based on actuarial standards and procedures established  
3 by the American Academy of Actuaries and the Actuarial Standards  
4 Board. An association that holds a certificate of authority pursuant  
5 to this chapter shall file its initial opinion no later than July 1,  
6 2016, and each July 1 thereafter.

7 (2) An association seeking a certificate of authority pursuant  
8 to this chapter shall file an opinion, to the extent feasible, that  
9 establishes that it would have adequate resources to provide  
10 benefits described in this chapter as required to satisfy its proposed  
11 contractual obligations.

12 (b) The opinion required by subdivision (a) shall include an  
13 opinion with supporting memoranda consistent with the same  
14 qualified actuary as to whether the reserves and related actuarial  
15 items held in support of the policies and contracts, when considered  
16 in light of the assets held by the association with respect to the  
17 reserves and related actuarial items, including, but not limited to,  
18 the investment earnings on the assets and the considerations  
19 anticipated to be received and retained under the policies and  
20 contracts, and shall make adequate provision for the association's  
21 obligations under the policies and contracts, including, but not  
22 limited to, the benefits under any expenses associated with the  
23 policies and contracts.

24 (c) The opinion required by subdivision (b) shall be governed  
25 by the following provisions:

26 (1) It shall include a memorandum, in form and substance,  
27 consistent with actuarial standards and procedures established  
28 by the American Academy of Actuaries and the Actuarial Standards  
29 Board, in support of the opinion.

30 (2) If the association fails to provide an opinion and supporting  
31 memoranda to the commissioner that meets the requirements of  
32 this section, the commissioner shall notify the association of the  
33 deficiencies in the filing, and shall make a specific request that  
34 identifies the issues that should be addressed in an amended filing.

35 (d) If the commissioner determines, after a review of the filings  
36 from the associations that the laws governing these associations  
37 are inadequate to protect the interests of the members of the  
38 associations, he or she shall develop and deliver recommendations  
39 to the Assembly Committee on Insurance and the Senate Committee

1 on Insurance regarding changes in the law that would better  
2 protect the interests of members of the associations.

3 (e) This section shall remain in effect only until December 31,  
4 2018, and as of that date is repealed, unless a later enacted statute,  
5 that is enacted before December 31, 2018, deletes or extends that  
6 date.

7 ~~SECTION 1. Chapter 10A (commencing with Section 11400)~~  
8 ~~of Part 2 of Division 2 of the Insurance Code is repealed.~~

9 ~~SEC. 2. Chapter 10A (commencing with Section 11400) is~~  
10 ~~added to Part 2 of Division 2 of the Insurance Code, to read:~~

11  
12 ~~CHAPTER 10A. FIREFIGHTERS', POLICE OFFICERS', OR PEACE~~  
13 ~~OFFICERS' BENEFIT AND RELIEF ASSOCIATIONS~~

14  
15 ~~Article 1. Definitions and Scope~~

16  
17 ~~11400. (a) For purposes of this chapter, the following~~  
18 ~~definitions apply:~~

19 ~~(1) "ERISA" refers to the Employee Retirement Income Security~~  
20 ~~Act of 1974 (Public Law 93-406).~~

21 ~~(2) "Long-term benefits" means scheduled member benefits~~  
22 ~~that are eligible to be paid for a period exceeding one year in~~  
23 ~~duration. These benefits include, without limitation, any benefit~~  
24 ~~providing coverage for loss of income as a result of disability, as~~  
25 ~~described in Section 799.01, or for long-term care insurance, as~~  
26 ~~defined in Section 10231.2, or any similar coverage or benefit~~  
27 ~~providing for payments which may last for a period longer than~~  
28 ~~one year.~~

29 ~~(b) Firefighters', police officers', or peace officers' benefit and~~  
30 ~~relief associations now existing, or which may be formed on and~~  
31 ~~after January 1, 2016, for the purpose of aiding their members or~~  
32 ~~dependents of their members in case of sickness, accident, distress,~~  
33 ~~or death, shall be subject to the provisions of this chapter.~~

34 ~~(c) An association that offers benefits, and that operates in, and~~  
35 ~~accepts members as described in Section 11403 only from a single~~  
36 ~~government entity, shall comply with this article, but is not subject~~  
37 ~~to Article 2 (commencing with Section 11408). If an association~~  
38 ~~operates strictly in accordance with this article, it shall not be~~  
39 ~~subject to any other provision of this code, nor to any law of this~~

1 state relating to insurance, whether now existing or hereafter  
2 enacted, except as expressly provided in this chapter.

3 (d) (1) An association that either offers long-term benefits, or  
4 operates in and accepts members as described in Section 11403  
5 from more than one government entity, or that does both, shall  
6 comply with this chapter, except that the association may receive  
7 support from bona fide employee organizations which represent  
8 a majority of 50 percent of the membership plus one member of  
9 the association's members in negotiations with their employers.

10 (2) An association described in paragraph (1) shall also comply  
11 with Article 2 (commencing with Section 11408), except as  
12 otherwise provided in paragraph (3).

13 (3) An association that arranges at all times to have all long-term  
14 benefits provided completely and continuously by an insurer  
15 admitted in this state for the class of benefits offered shall not be  
16 subject to Article 2 (commencing with Section 11408).

17 (e) The commissioner may take regulatory action pursuant to  
18 any remedy specified in this code against any association which  
19 fails to comply with the applicable provisions of this chapter.

20 (f) The commissioner may adopt reasonable rules and  
21 regulations for the implementation and administration of this  
22 chapter.

23 (g) This chapter shall not be construed in a manner that conflicts  
24 with ERISA. Associations governed by ERISA, as amended, shall  
25 also comply with this chapter, except to the extent that the  
26 association reasonably believes that compliance with this chapter  
27 would conflict or interfere with or unduly burden the association's  
28 obligation to comply with ERISA.

29 11401. An association shall not operate or do business in this  
30 state without a certificate of authority. The commissioner shall  
31 issue a certificate of authority to an association unless he or she  
32 determines, after examination, that it does not comply with the  
33 applicable provisions of this chapter. The filing fee for the  
34 application for the certificate of authority shall be five hundred  
35 ninety dollars (\$590). An association shall apply for a certificate  
36 no later than 18 months after its establishment or the effective date  
37 of this chapter, whichever is later. An association shall be permitted  
38 to operate or do business in this state during the first 18 months  
39 of its establishment and while its application for a certificate of

1 authority is pending, provided the association complies in good  
2 faith with this chapter.

3 ~~11402. The association may be incorporated or unincorporated,~~  
4 ~~but, if incorporated, it shall neither issue nor be authorized to issue~~  
5 ~~shares of stock.~~

6 ~~11403. The membership of an association shall consist solely~~  
7 ~~of the following or any combination thereof:~~

8 ~~(a) (1) A majority consisting of at least 50 percent of the~~  
9 ~~membership plus one member of the association's members of~~  
10 ~~police departments of municipal or public corporations or districts.~~

11 ~~(2) Other associations that are each comprised of a majority~~  
12 ~~consisting of at least 50 percent of the membership plus one~~  
13 ~~member of police departments of municipal or public corporations~~  
14 ~~or districts that meet the eligibility criteria to participate in an~~  
15 ~~association and that satisfy the criteria to participate in an~~  
16 ~~association that intends to comply with the requirements of this~~  
17 ~~chapter and has been admitted to participate by the association.~~

18 ~~(b) (1) A majority consisting of at least 50 percent of the~~  
19 ~~membership plus one member of the association's members of fire~~  
20 ~~departments of municipal or public corporations or districts.~~

21 ~~(2) Other associations that are each comprised of a majority~~  
22 ~~consisting of at least 50 percent of the membership plus one~~  
23 ~~member of the association's members of fire departments of~~  
24 ~~municipal or public corporations or districts and that satisfy the~~  
25 ~~criteria to participate in an association that intends to comply with~~  
26 ~~the requirements of this chapter and has been admitted to~~  
27 ~~participate by the association.~~

28 ~~(c) (1) A majority consisting of at least 50 percent of the~~  
29 ~~membership plus one member of the association's peace or law~~  
30 ~~enforcement officers who are regular and salaried officers or~~  
31 ~~employees of the state or of a single county or other political~~  
32 ~~subdivision or public or municipal corporation.~~

33 ~~(2) Other associations that are each comprised of a majority~~  
34 ~~consisting of at least 50 percent of the membership plus one~~  
35 ~~member of the peace or law enforcement officers who are regular~~  
36 ~~and salaried officers or employees of the state or of a single county~~  
37 ~~or other political subdivision or public or municipal corporation~~  
38 ~~and that satisfy the criteria to participate in an association that~~  
39 ~~intends to comply with the requirements of this chapter and has~~  
40 ~~been admitted to participate by the association.~~

1     ~~(d) (1) A majority consisting of at least 50 percent of the~~  
2     ~~membership plus one member of the association's persons who~~  
3     ~~are emergency medical services personnel and employed by a fire~~  
4     ~~department of a city, county, or district.~~

5     ~~(2) Other associations that are each comprised of a majority~~  
6     ~~consisting of at least 50 percent of the membership plus one~~  
7     ~~member of the peace or law enforcement officers who are~~  
8     ~~emergency medical services personnel and employed by a fire~~  
9     ~~department of a city, county, or district and that satisfy the criteria~~  
10    ~~to participate in an association that intends to comply with the~~  
11    ~~requirements of this chapter and has been admitted to participate~~  
12    ~~by the association.~~

13    ~~(e) A majority consisting of at least 50 percent of the~~  
14    ~~membership plus one member of the association's persons who at~~  
15    ~~the time of becoming members of the association were qualified~~  
16    ~~pursuant to subdivision (a), (b), (c), or (d).~~

17    ~~11404. The association shall not pay or promise or agree to~~  
18    ~~pay, either directly or indirectly, any consideration of any nature~~  
19    ~~for the solicitation or procuring of members or applications for~~  
20    ~~membership.~~

21    ~~11405. The membership of the association who are eligible to~~  
22    ~~vote shall elect the trustees or directors, or the governing body of~~  
23    ~~the association, by whatever name their office is known or~~  
24    ~~designated.~~

25    ~~11406. Moneys or property directly or indirectly contributed~~  
26    ~~to the association by its members shall not be paid out as benefits~~  
27    ~~to any persons other than its members, their dependents, or~~  
28    ~~beneficiaries nominated in writing by the members or as provided~~  
29    ~~by a written plan document governing the payment of that benefit.~~

30    ~~11407. The association shall be supported mainly by~~  
31    ~~contributions from its members, whether in the form of fees, dues,~~  
32    ~~assessments, or otherwise, and by donations made to it from time~~  
33    ~~to time and from any investment earnings on those contributions.~~  
34

35     Article 2. Benefit and Relief Associations Providing Long-Term  
36     Benefits or Comprised of Multiple Government Subdivisions:

37             Reserve Requirements

38  
39     ~~11408. An association that is subject to this article shall do all~~  
40     ~~of the following:~~



1     ~~(a) Operate in accordance with sound actuarial principles, and~~  
2     ~~be able to meet its obligation to provide the benefits that it promises~~  
3     ~~to its members.~~

4     ~~(b) Establish and maintain appropriate loss and loss adjustment~~  
5     ~~reserves determined by sound actuarial principles as provided in~~  
6     ~~Section 11410 to adequately fund the present value of expected~~  
7     ~~future payments provided that the reserve on all policies to which~~  
8     ~~the method or basis applied is not less in the aggregate than the~~  
9     ~~required reserves as determined in Section 11409 or as determined~~  
10    ~~by a qualified actuary that satisfies the requirements of Section~~  
11    ~~10489.15 and is based on the standards adopted by the Actuarial~~  
12    ~~Standards Board.~~

13    ~~(c) Maintain a contingency reserve of not less than 20 percent~~  
14    ~~of the greater of the past 12 months' premium or the expected~~  
15    ~~annual premium for the next 12 months.~~

16    ~~(d) Hold all reserves and other funds for the payment and~~  
17    ~~administration of benefits provided pursuant to this chapter in trust,~~  
18    ~~to be used for the exclusive purpose for which they were intended,~~  
19    ~~which may include necessary and reasonable administrative costs.~~

20    ~~11409. (a) Reserves required by this article shall be invested~~  
21    ~~as prescribed in this subdivision and subdivision (b). An association~~  
22    ~~shall maintain at least 25 percent of the contingency reserve~~  
23    ~~required by subdivision (d) of Section 11408 in investments~~  
24    ~~specified in Article 3 (commencing with Section 1170) of Chapter~~  
25    ~~2 of Part 2 of Division 1 and in Section 1192.5.~~

26    ~~(b) The balance of the assets of the association in an amount~~  
27    ~~equal to the reserves may be invested in assets permissible for~~  
28    ~~investment by multiple employer welfare arrangements pursuant~~  
29    ~~to subdivision (b) of Section 742.245.~~

30    ~~(c) The commissioner may, after a hearing, by written order,~~  
31    ~~require the disposal of any investment made pursuant to subdivision~~  
32    ~~(b) if the association has failed to maintain cash or liquid assets~~  
33    ~~sufficient to meet its claims and any other contractual obligations.~~

34    ~~11410. (a) Each association that is subject to this article shall~~  
35    ~~file with the commissioner, no later than the last day of the~~  
36    ~~11-month period after the end of each calendar year, or the last~~  
37    ~~day of the 11-month period after the end of each fiscal year not~~  
38    ~~on a calendar year basis, or within 30 days of the filing of the~~  
39    ~~association's annual return with the United States Department of~~  
40    ~~Labor, whichever is earlier, financial statements audited by a~~

1 certified public accountant. Furthermore, no later than May 1 of  
2 every third calendar year or the first day of the fifth month after  
3 the end of each third fiscal year not on a calendar year basis,  
4 beginning January 1, 2014, an actuarial opinion shall be rendered  
5 by a qualified actuary that satisfies the requirements of Section  
6 10489.15. The opinion shall be based on standards adopted from  
7 time to time by the Actuarial Standards Board and on any  
8 additional standards that the commissioner may by regulation  
9 prescribe. For the purposes of this section, “qualified actuary”  
10 means a member in good standing of the American Academy of  
11 Actuaries who meets the requirements set forth in regulations of  
12 the commissioner.

13 (b) Each association that is subject to this article shall provide  
14 to its members a summary annual report within the meaning of  
15 ERISA detailing the association’s year-end financial condition.  
16 The report shall be provided to members in the time and manner  
17 required by ERISA. The association shall also provide a copy of  
18 the report to the commissioner.

19 11411. The commissioner or any persons designated by the  
20 commissioner shall have the power to examine the operations,  
21 affairs, transactions, conduct, and financial condition of an  
22 association, and for that purpose shall have access to all books,  
23 records, and documents that relate to the business of the association  
24 that is regulated by this chapter during the normal and regular  
25 business hours of the association, and may examine under oath its  
26 trustees, officers, agents, and employees in relation to the  
27 operations, affairs, transactions, conduct, and condition of the  
28 association. If, after a duly noticed hearing with the association  
29 during which the association is given a full and fair opportunity  
30 to address the written issues or concerns raised by the  
31 commissioner following his or her examination of the association’s  
32 operations, affairs, transactions, conduct, and financial condition  
33 of the association, the commissioner determines that the  
34 association’s operations, affairs, transactions, conduct, or financial  
35 condition do not comply with requirements of this chapter, the  
36 commissioner may apply any remedies authorized by this code.  
37 Examinations will be conducted at the expense of the department.

38 11412. (a) Upon reasonable request of the commissioner, and  
39 at reasonable intervals as prescribed by him or her, any association  
40 that reasonably appears to the commissioner to require immediate

1 regulatory attention based on written evidence or other information  
2 shall provide to the commissioner supplemental accounting,  
3 financial, and actuarial information. The commissioner shall  
4 provide all written evidence or other information that forms the  
5 basis of the commissioner's request to an association at the time  
6 the request is made. The commissioner may request that an  
7 association select and retain an independent certified public  
8 accountant, a certified public accountant corporation, an actuarial  
9 corporation, or an independent actuary satisfactory to the  
10 commissioner, if the association has not already retained experts  
11 of this type who meet the then-current regulatory standards of the  
12 actuarial society. The commissioner, at the expense of the  
13 association, may select or retain an independent certified public  
14 accountant, a certified public accountant corporation, an actuarial  
15 corporation, or an independent actuary, if the association does not  
16 within a reasonable time make the selection as requested by the  
17 commissioner.

18 (b) The provisions of Sections 925.1 to 925.4, inclusive, shall  
19 apply to all proceedings under this section.

20 11413. Books, records, and documents pertaining to the  
21 business of an association that is subject to this article shall be  
22 maintained either by the association or by its administrator if any,  
23 or both, for a period of five years after the end of the year when  
24 the transaction evidenced thereby ends. "Administrator," as used  
25 in this section, has the same meaning as that contained in Section  
26 1002(16)(A) of Title 29 of the United States Code.

27 11414. An association that is subject to this article shall not  
28 avoid the applicability of this article by making statements in any  
29 contract for benefits, or by any other means, to the effect that  
30 payment of benefits to any member when eligible for benefits  
31 based on the date of injury (and provided the member has satisfied  
32 the association's reasonable claims procedure) is contingent upon  
33 the availability of assets, moneys, or other financial resources  
34 sufficient to make the payment. This article does not provide for  
35 the vesting of any benefit that is not already in pay status and does  
36 not affect an association's right to amend or terminate a plan in  
37 whole or in part.

38 11415. (a) All contracts that are not regulated by the  
39 department for benefits, and certificates evidencing coverage

1 thereunder, shall include the following disclosure, in capital letters  
2 and in a minimum of 12-point font:

3  
4 ~~THE ASSOCIATION DOES NOT PARTICIPATE IN ANY~~  
5 ~~OF THE INSURANCE GUARANTEE FUNDS CREATED BY~~  
6 ~~CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL~~  
7 ~~NOT PAY YOUR CLAIMS OR PROTECT YOUR BENEFITS~~  
8 ~~IF THE ASSOCIATION BECOMES INSOLVENT AND IS~~  
9 ~~UNABLE TO MAKE PAYMENTS AS PROMISED.~~

10 ~~THE ASSOCIATION IS NOT REGULATED BY THE STATE~~  
11 ~~OF CALIFORNIA TO THE SAME EXTENT AS INSURERS~~  
12 ~~THAT PARTICIPATE IN ANY OF THE INSURANCE~~  
13 ~~GUARANTEE FUNDS CREATED BY CALIFORNIA LAW,~~  
14 ~~AND ARE LICENSED UNDER OTHER PROVISIONS OF THE~~  
15 ~~CALIFORNIA INSURANCE CODE.~~

16  
17 ~~(b) An association shall, upon written request from any member,~~  
18 ~~provide to that member a copy of the contract for benefits,~~  
19 ~~certificate evidencing coverage, or other plan document that~~  
20 ~~describes the benefits being provided to that member, within 30~~  
21 ~~days of the request.~~

22 ~~(c) Members shall be given notice of any material benefit plan~~  
23 ~~amendment within the time and in the manner required for~~  
24 ~~Summary Material Modifications under ERISA.~~

25 ~~(d) If an association maintains an Internet Web site, the~~  
26 ~~association shall provide an electronic link within that Internet~~  
27 ~~Web site where both members and prospective members can see~~  
28 ~~the most current benefit plan documents and the most recent~~  
29 ~~certified audited financial statements that the association is required~~  
30 ~~to file with the United States Department of Labor, Internal~~  
31 ~~Revenue Service, or the Franchise Tax Board.~~

32 ~~11416. (a) An association that elects to cease operation in this~~  
33 ~~state shall be governed by and comply with the provisions of~~  
34 ~~Sections 1070 to 1076, inclusive.~~

35 ~~(b) Notwithstanding subdivision (a), if an association is a~~  
36 ~~tax-exempt voluntary employee benefit association (VEDA), it~~  
37 ~~shall cease operations in accordance with the rules applicable to~~  
38 ~~VEDA's and ERISA plans.~~

39 ~~11417. An association shall owe and pay the following annual~~  
40 ~~fees, in addition to any other remuneration required by law:~~

1     ~~(a) An annual fee of three hundred fifty dollars (\$350) in~~  
2     ~~advance, that shall be due on each March 1, and shall be delinquent~~  
3     ~~on and after April 1.~~

4     ~~(b) An annual fee of three hundred forty-seven dollars (\$347)~~  
5     ~~for filing of financial information, due when the information is~~  
6     ~~filed pursuant to Section 11410.~~

7     ~~11418. The commissioner may exercise stop order power over~~  
8     ~~an association that is subject to this article, pursuant to Sections~~  
9     ~~1065.1 to 1065.7, inclusive.~~

10    ~~11419. (a) An association shall continue to provide long-term~~  
11    ~~benefits to any individual or entity that is no longer a member but~~  
12    ~~became entitled to benefits prior to the end of membership, as if~~  
13    ~~that individual or entity remained a member, provided the member~~  
14    ~~satisfied the association's reasonable claims procedure.~~

15    ~~(b) Benefits may be limited to the duration of the benefit period,~~  
16    ~~if any, or to payment of the maximum benefits, and may be subject~~  
17    ~~to any policy waiting period, and all other applicable provisions~~  
18    ~~of the policy consistent with this section, including any reasonable~~  
19    ~~claims procedure.~~

20    ~~(c) An association may stop providing benefits to an individual~~  
21    ~~or entity specified in subdivision (a) upon receipt of written~~  
22    ~~confirmation from a successor association or admitted insurer that~~  
23    ~~the individual or entity will begin receiving those benefits without~~  
24    ~~lapse. Notwithstanding the foregoing, an association may reduce~~  
25    ~~or coordinate the member's benefit with the successor association's~~  
26    ~~plan or insurer's policy if the association has a reasonable belief~~  
27    ~~that the member is receiving or is eligible for benefits under the~~  
28    ~~successor plan or insurance policy.~~

29    ~~(d) Notwithstanding any other provision of this chapter, any~~  
30    ~~individual or entity that is no longer a member of the association,~~  
31    ~~but, while still a member, paid all funds or contributions necessary~~  
32    ~~to be entitled to paid-up, long-term benefits, shall be entitled to~~  
33    ~~receive benefits as if that individual or entity remained a member,~~  
34    ~~unless the obligation to pay those benefits is assumed by a~~  
35    ~~successor association or admitted insurer.~~

36    ~~11419.5. An association that is subject to this article is subject~~  
37    ~~to the provisions of Sections 790 to 790.09, inclusive.~~

38    ~~11419.6. (a) (1) Any individual or entity aggrieved by an~~  
39    ~~action taken by an association regarding payment of benefits, or~~  
40    ~~entitlement to benefits, or eligibility to participate in a plan~~

1 sponsored by an association, may file a complaint or submit an  
2 inquiry to the commissioner pursuant to the applicable provisions  
3 of Sections 12921.1 to 12921.4, inclusive.

4 (2) Notwithstanding paragraph (1), for an association whose  
5 plan provides benefits that are subject to this chapter that are also  
6 subject to ERISA, an individual or entity may not file a complaint  
7 or submit an inquiry regarding the payment of those benefits, or  
8 entitlement to benefits, or eligibility to participate in a plan  
9 sponsored by an association, to the commissioner until the  
10 individual or entity has exhausted the association's internal claims  
11 and appeals procedure.

12 (b) An individual or entity may file a complaint or submit an  
13 inquiry to the commissioner regarding an association's compliance  
14 with Section 11401, 11402, 11403, 11404, 11405, 11406, 11407,  
15 11408, 11409, 11410, or 11415 pursuant to the applicable  
16 provisions of Sections 12921.1 to 12921.4, inclusive.

17 11419.7. If, upon sufficient complaint or inquiry as provided  
18 in subdivision (a) or (b) of Section 11419.6, the commissioner has  
19 good cause to believe that an association has violated any of the  
20 provisions of this chapter, the commissioner may hold a public  
21 hearing in connection with those violations. This hearing may be  
22 in accordance with the administrative adjudication provisions of  
23 the Administrative Procedure Act (Chapter 4.5 (commencing with  
24 Section 11400) of, and Chapter 5 (commencing with Section  
25 11500) of, Part 1 of Division 3 of Title 2 of the Government Code);  
26 and the commissioner shall have all the powers granted pursuant  
27 to these provisions. For any complaint or inquiry as provided in  
28 subdivision (a) of Section 11419.6 regarding the payment of  
29 benefits, or entitlement to benefits, the commissioner shall not  
30 have the power to direct the payment of any benefit to a member  
31 unless the terms of the plan governing the benefit expressly allows  
32 for that payment.

33 11419.8. If, after a hearing pursuant to Section 11419.7  
34 regarding a complaint or inquiry as provided in Section 11419.6  
35 and the administrative adjudication provisions of the  
36 Administrative Procedure Act (Chapter 4.5 (commencing with  
37 Section 11400) of, and Chapter 5 (commencing with Section  
38 11500) of, Part 1 of Division 3 of Title 2 of the Government Code);  
39 the commissioner finds that an association has violated the  
40 provisions of this chapter, the commissioner may, in addition to

1 other penalties and remedies provided in this code, suspend or  
2 revoke, in whole or in part, the certificate of authority of any  
3 association granted pursuant to Section 11401.

4 SEC. 3. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.